

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

TERRILL KIZZIA, )  
                        )  
Plaintiffs,         )  
                        )  
v.                     )      **Case No. CIV-10-039-JHP**  
                        )  
MUSKOGEE COUNTY SHERIFF'S )  
OFFICE, MUSKOGEE COUNTY JAIL, )  
CHARLES PEARSON in his official )  
capacity,                 )  
                        )  
Defendants.         )

**ORDER**

Rule 41(b) of the Federal Rules of Civil Procedure provides as follows:

(b) For failure of the plaintiff to prosecute **or to comply with these rules or any order of court**, a defendant may move for dismissal of an action or any claim against the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for by this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

(Emphasis added)

In this case the Plaintiff has failed to comply with an order of the Court. On September 14, 2010, the Court addressed in an Order Plaintiff's Attorney's Motion to Withdraw. This Court entered an Order requiring the Plaintiff to, within 15 days, either enter an appearance *pro se* or retain new counsel who was to file an entry of appearance. [Doc. No. 31] As of the date of this Order, the Plaintiff has neither retained new counsel nor entered an appearance *pro se*. The Plaintiff was advised that failure to comply with the Court's Order could result in dismissal without prejudice.

[Doc. No. 31]

In light of the Plaintiff's failure to comply with this Court's order, this Court dismisses this action in all respects pursuant to Federal Rule of Civil Procedure 41(b).

**IT IS SO ORDERED**, this 21st day of October, 2010.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma